

STATE OF WASHINGTON**OFFICE OF
INSURANCE COMMISSIONER****BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

In the Matter of)	NO. D01-119
)	
EMPLOYER'S HEALTH)	
INSURANCE COMPANY,)	CONSENT AGREEMENT
)	
An Authorized Disability Insurer)	

RECITATIONS

1. Employer's Health Insurance Company ("Company") is authorized to transact life and disability insurance in the state of Washington and has provided comprehensive health insurance coverage to small groups in this state.
2. The Company sent an informational letter to the OIC on February 21, 2001, by registered mail advising the OIC that the Company intended to withdraw from the small group health insurance market in Washington. The OIC asserts that it did not receive that letter. In April, 2001, the Company notified OIC that it intended to withdraw from the small group health insurance market in the state of Washington. In that notification, the Company stated that its withdrawal was in accordance with the provisions of the Health Insurance Portability and Accountability Act ("HIPAA"), 42 USCA Sec. 300gg, et. seq.
3. On April 17, 2001, OIC notified the Company of the OIC's position that RCW 48.43.035 required a health plan issuer to continue coverage until and unless the conditions set forth therein had been satisfied.
4. In April 2001, the Company sent its small group insureds notice that, effective November 1, 2001, it would not renew those health plan contracts and those plans would terminate. At the time it sent such notices to its small group insureds, the Company did not send OIC a copy of those termination notices or otherwise notify OIC that it had sent such notices and had proceeded to begin implementing its withdrawal.

5. OIC and the Company exchanged several communications from April to November 2001. The Company stated that only HIPAA applied to its withdrawal from the small group health insurance market. In its communications, the OIC repeatedly informed the Company that state law was not preempted and must be complied with prior to the Company's withdrawal.

6. On or about November 26, 2001, the Company informed OIC that the Company had sent termination letters in April of that year. The OIC commenced this action when it issued an Order to Cease and Desist to the Company dated November 29, 2001; issued its Notice of Proposed Order and Order Suspending Certificate of Authority No. 1644 to the Company dated November 29, 2001; and sent the Company a proposed Consent Order imposing a fine dated November 29, 2001 (collectively the "Orders"). The basis for these Orders included the OIC's allegations of the Company's failure to comply with the automatic renewal provisions of RCW 48.43.035, the exit requirements of RCW 48.05.290, and the prompt and accurate communication requirements of WAC 284-30-650. Prior to its nonrenewal of its small group policies, the Company did not have zero enrollment on its small group product. Although the Company's small groups have now obtained replacement coverage, the Company did not itself replace its product with a comparable product and offer that to its insureds, nor did the Company demonstrate to the Commissioner that its clinical, financial, or administrative capacity had been or would be exceeded.

7. On December 6, 2001, prior to the effective date of the Order Suspending Certificate of Authority No. 1644, the Company filed its Demand for Hearing.

8. The Company acknowledges that its withdrawal from the small group health insurance market in Washington was not consistent with RCW 48.43.035, and that a carrier is obligated to comply with all applicable state laws. The Company further acknowledges that not all of its communications with OIC met the requirements of WAC 284-30-650.

9. The OIC and the Company desire and have agreed to resolve this matter without further administrative or judicial proceedings and, pursuant to this Consent Agreement, hereby waive their rights to such proceedings, including the current administrative adjudication and any appeal of any adverse decision in this adjudication.

10. This Consent Agreement shall be made a part of, and incorporated into, an Order Terminating Adjudicative Proceedings.

11. Within thirty days after executing this Consent Agreement, the Company will send to each of the insured groups whose coverage was terminated by the above-referenced termination notice a check or warrant in the sum of \$2,000.00 payable to each said insured group. If the total of such payments to the insured groups is less than one hundred fifty-eight thousand dollars (\$158,000), the difference between the sum of \$158,000 and the total amount paid by the Company to said groups under this Consent Agreement shall be added to an amount to be paid to OIC so that the Company's payments to the groups and to the OIC pursuant to this Consent Agreement shall together total five hundred thousand dollars (\$500,000).

12. Immediately upon execution of this Consent Agreement, the Company will provide OIC a list of the names and addresses of each of the insured groups whose coverage was terminated so that OIC may send a letter explaining that they will be receiving a check from the Company for \$2,000 and the reason for the payment. Employers may also send its own letter with its payments to the insured groups. The OIC agrees that the Company may review and approve the OIC's proposed letter to the former insured groups before it is sent.

13. Upon execution of this Consent Agreement, OIC's Order to Cease and Desist against the Company dated November 28, 2001, and its Notice of Proposed Order and Order Suspending Certificate of Authority No. 1644 issued against the Company dated November 29, 2001, shall be rescinded.

14. Upon execution of this Consent Agreement, the Company's withdrawal from the state of

Washington small group market will be complete and final as of the date of execution and all issues that are the subject of this above-captioned matter have been fully settled, and the proceedings in this matter shall be terminated and dismissed with prejudice.

DATED this ____ day of _____, 2002.

EMPLOYERS HEALTH INSURANCE COMPANY

By _____

Its _____

MIKE KREIDLER,
INSURANCE COMMISSIONER, STATE OF
WASHINGTON

By _____

Title _____